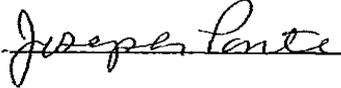


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| <b>POLICY TITLE: DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING AND THE WORKPLACE</b> |   | <b>PAGE 1 OF 6</b>   |
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| <b>CHAPTER 3: PERSONNEL</b>   |   |  |
|      | <b>STATE of MAINE<br/>DEPARTMENT OF CORRECTIONS</b><br>Approved by Commissioner:<br> | <b>PROFESSIONAL STANDARDS:</b><br><br><b>See Section VII</b> |
| <b>EFFECTIVE DATE:</b><br>February 28, 2014   | <b>LATEST REVISION:</b>   | <b>CHECK ONLY IF<br/>APA [ ]</b>                             |

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A MSRA Section 1403 and Executive Order 23 FY 11/12, An Order Regarding Domestic Violence Awareness and Workplace Policies Within Departments of State Government (which references State of Maine the State of Maine Equal Employment Opportunity/Affirmative Action Policy; State of Maine Harassment Policy; and State of Maine E-Mail Usage and Management Policy).

**II. APPLICABILITY**

Entire Maine Department of Corrections

**III. POLICY**

The Department of Corrections institutes this policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidence and effects of domestic violence, sexual assault, and stalking against employees. The Department recognizes that these are workplace issues and impact the workplace even if the incidents occur elsewhere. The Department is committed to assisting employees who are victims.

**IV. CONTENTS**

- Procedure A: Workplace Policy on Domestic Violence, Sexual Assault, and Stalking, General
- Procedure B: Employee Awareness and Training
- Procedure C: Reporting and Confidentiality
- Procedure D: Response to an Employee Identified as a Victim
- Procedure E: Performance Issues
- Procedure F: Response to an Employee Identified as a Perpetrator

**V. ATTACHMENTS**

None

## VI. PROCEDURES

### Procedure A: Workplace Policy on Domestic Violence, Sexual Assault, and Stalking, General

1. Domestic violence is a pattern of coercive behavior that is used by a person against family or household members to establish and maintain power and control over the other party in the relationship. This behavior may include physical violence, sexual assault, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, abuse of pets, and destruction of personal property.
2. Sexual assault is an act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, sexual contact, ritual abuse, exposure, and voyeurism.
3. Stalking is repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of work; making harassing phone calls; sending letters, texts or e-mails; leaving written messages or objects; or vandalizing a person's property.
4. The Department of Corrections has a zero tolerance policy and will take appropriate disciplinary action against and/or refer for criminal prosecution any employee or non-employee who commits an act of domestic violence, sexual assault or stalking against an employee in the workplace, which may include committing such an act in a state office, state facility, or other state work site or a state vehicle, or while using the facilities, services or resources of the state, wearing a state issued uniform, using a state vehicle, traveling on behalf of the state, or otherwise conducting any state business.

### Procedure B: Employee Awareness and Training

1. The Department is committed to increasing employee awareness through training and posting of information. The appropriate departmental human resources staff shall ensure that information regarding domestic violence, sexual assault, and stalking, community resources and related information is posted in all of the Department's facilities and offices.
2. All employees shall complete an approved State of Maine Bureau of Human Resources training on domestic violence, available either online or in coordination with Department of Corrections training staff for those employees who do not have access to online training.

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3. All employees with supervisory responsibility and departmental human resources staff shall receive specialized training on procedures and best practices for identifying and responding to employees affected by domestic violence.

**Procedure C: Reporting and Confidentiality**

1. An employee who experiences domestic violence, sexual assault or stalking in the workplace shall immediately report the incident to departmental human resources staff or any supervisor.
2. An employee who witnesses or learns of domestic violence, sexual assault or stalking against another employee in the workplace shall immediately report the incident to departmental human resources staff or any supervisor.
3. In the case of an urgent threat in the workplace (if domestic violence is occurring or appears imminent), the employee shall seek assistance from a departmental law enforcement officer, if available, or, if not available, shall call 911 or other appropriate emergency number or otherwise seek emergency assistance.
4. A co-worker concerned that an employee is a victim of domestic violence, sexual assault or stalking, even if the incident occurred elsewhere, may also contact departmental human resources staff or any supervisor to discuss the concern.
5. A supervisor shall immediately refer any employee known to be the victim or the perpetrator of domestic violence, sexual assault or stalking to departmental human resources staff.
6. An employee who has obtained a protective order is encouraged to provide a copy of the protective order to departmental human resources staff, particularly when the workplace is listed on the order, so that appropriate steps can be taken to enforce the order and protect that employee and others in the workplace. The employee is encouraged to keep a current copy of the protective order immediately available in the workplace.
7. Departmental human resources staff or a supervisor who becomes aware of a protective order against an employee or information that an employee is charged with or convicted of domestic violence, sexual assault or stalking shall keep that information confidential to the extent permitted by law and may only discuss the information with those persons who need to be informed.
8. Departmental human resources staff shall maintain copies of protective orders and other documents that demonstrate workplace domestic violence, sexual

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assault or stalking in a confidential file separate from the employee's human resource file.

9. The Department recognizes and respects the need for confidentiality regarding employees who are affected by domestic violence, sexual assault and stalking. To the extent permitted by law and unless the substance of the employee's disclosure demands otherwise, the Department shall maintain the confidentiality of a victim's or perpetrator's disclosure. Further disclosure may be necessary if safety planning measures must be undertaken for victims or if a threat to the safety of any person in the workplace exists.
10. Whenever possible, the employee shall be given notice in the event that further disclosure is necessary.
11. Employees should be aware that situations involving suspected abuse or neglect of children or suspected abuse, neglect, or exploitation of incapacitated or dependent adults will be reported to outside agencies.
12. Nothing in this policy prohibits a law enforcement officer from reporting any criminal conduct in accordance with Maine law and Department policy.

**Procedure D: Response to an Employee Identified as a Victim**

1. Departmental human resource staff shall be considered the primary responders to employees who are victims.
2. Departmental human resource staff shall provide referral information to the victim, to include referral to:
  - a. a local domestic violence resource center listed at Maine Coalition to End Domestic Violence listed at <http://mcedv.org/services>;
  - b. a local sexual assault support center listed at <http://www.mecasa.org/>; and/or
  - c. the Maine State Employee Assistance Program.
3. When the Department becomes aware of ongoing domestic violence, sexual assault or stalking concerns affecting an employee, departmental human resource staff shall develop a safety plan to minimize risks to the victim and other employees. If the persons identified as victim and perpetrator are both employed by the Department, the workplace safety plan shall place the needs of the victim as the primary priority, and isolating the perpetrator from the victim is preferred if relocation for safety purposes is an issue.
4. Departmental human resource staff shall offer leave, with or without pay, to be used for the purposes of accessing domestic violence or sexual assault support

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services, receiving counseling, obtaining medical treatment, attending legal proceedings or carrying out other necessary activities to remedy a crisis caused by domestic violence, sexual assault or stalking in accordance with 26 M.R.S.A. §850, Employment Leave for Victims of Violence.

5. Leave may be with pay in the form of allowing the employee to use sick time or annual compensatory time (vacation time). If paid leave is not sufficient, then leave without pay, such as family and medical leave, may be used. As an alternative to leave, flexible work hours may be arranged so that the employee can handle legal matters, court appearances, housing, and childcare.

**Procedure E: Performance Issues**

1. The Department recognizes that victims of domestic violence, sexual assault or stalking may have performance problems, such as inability to concentrate, absenteeism, and productivity issues. When an employee confides to a supervisor that job performance issues are caused by domestic violence, sexual assault or stalking, referrals and assistance shall be offered in accordance with this policy, along with an opportunity to correct performance problems.
2. Nothing in this policy alters the authority of the Department to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave or take other action as it deems appropriate.

**Procedure F: Response to an Employee Identified as a Perpetrator**

1. Departmental human resource staff shall be considered the primary responders to employees who are perpetrators.
2. Departmental human resource staff shall provide referral information to the perpetrator, to include referral to:
  - a. a Certified Batterers Intervention Program listed at ; and/or
  - b. the Maine State Employee Assistance Program.
3. An employee who is found, as a result of a departmental investigation, to have committed an act of domestic violence, sexual assault or stalking in the workplace, which may include committing such an act in a state office, state facility, or other state work site or a state vehicle, or while using the facilities, services or resources of the state, wearing a state issued uniform, using a state vehicle, traveling on behalf of the state, or otherwise conducting any state business shall be subject to disciplinary action, up to and including termination.

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4. An employee who is convicted or issued a permanent court order as a result of domestic violence, sexual assault or stalking, when such action has a nexus/connection to his or her employment with the State, shall be subject to disciplinary action, up to and including termination.
5. An employee who is arrested or issued a temporary court order as a result of domestic violence, sexual assault or stalking, when such action has a nexus/connection to his or her employment with the State, may be subject to disciplinary action, up to and including termination.
6. Any employee must disclose to the employee's supervisor any criminal court order or any protective order involving allegations of domestic violence, sexual assault or stalking that includes:
  - a. A condition prohibiting or limiting contact with any other employee of the Department; or
  - b. A condition that may interfere with the employee's ability to perform job duties, such as a prohibition against carrying a firearm, or a no-contact order involving any person with whom the employee may come in contact while carrying out the duties of his or her employment.

Failure to disclose the above information shall result in disciplinary action, up to and including termination.

**VII. PROFESSIONAL STANDARDS**

**NONE**

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